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10/679,469	10/07/2003	Kevin T. Connelly		6662

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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/679,469	Applicant(s) CONNELLY ET AL.	
	Examiner Timothy M. Ayres	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

This is a first office action on the merits of application SN 10/679,469.

Claim Objections

1. Claim 18 is objected to under 37 CFR 1.75(c) as being in improper form because the claim number is missing to show which claim it is dependent on. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1-4, 14-17, 19-21, 31, 44-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The term "substantially larger" in claim 1 is a relative term which renders the claim indefinite. The term "substantially larger" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear how much larger the perimeter is.
5. Claim 4 recites the limitation "said vertical columns" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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6. Claim 14 recites the limitation "said plurality of connector brackets" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

7. The term "permanently secured" in claim 14 is a relative term, which renders the claim indefinite. The term "permanently secured" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Some may consider welding to be permanent even though some cases it can be undone with the correct tools and screws, generally used for their ability to be removed can be relatively permanent with the use of thread lock or with a head that can only be turned in one direction. It is unclear on the level of ability to remove that is given by the statement "permanently secured".

8. Claim 15 recites the limitation "said plurality of connector brackets" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

9. Claim 16 recites the limitation "said plurality of connector brackets" in line 2.

There is insufficient antecedent basis for this limitation in the claim.

10. Claim 17 recites the limitation "said vertical member" in line 1 and "said ends" in line 2. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 19 recites the limitation "said plurality of beams" in line 19. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 20 recites the limitation "said plurality of connector brackets" in line 3.

There is insufficient antecedent basis for this limitation in the claim.

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13. Claim 21 recites the limitation "said angle" in line 1. There is insufficient antecedent basis for this limitation in the claim.

14. The term "about" in claims 21, 31, 44, and 50 is a relative term which renders the claim indefinite. The term "about" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear how close about is to 22 degrees.

15. The term "at least one beam" in line 8 of claim 45 is indefinite. It is unclear which beam and where and how it is located with respect to the vertical columns.

16. In claim 46 lines 2 and 3 recite the same limitations of vertical members and angled members as claim 45 lines 7 and 8 does.

17. Claim 46 recites the limitation "said ends" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

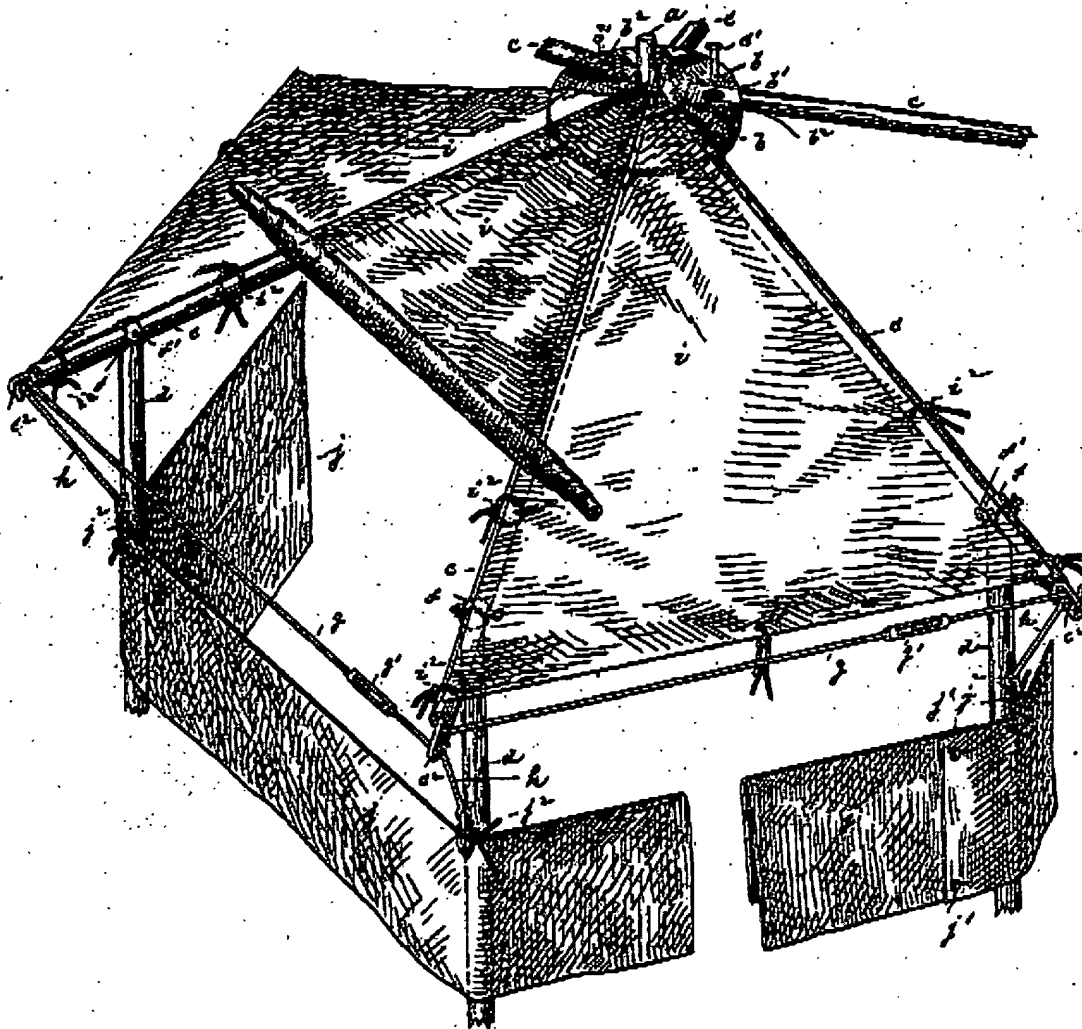
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

19. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 1,900,274 to Brockie. Brockie '274 discloses a playpen with a floor portion (34)

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that defines a play area with a first perimeter. A canopy (52) is over the floor portion (34) and has a second perimeter that is larger than the first perimeter of the floor portion (34).

20. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 589,563 to Jensen. Jensen '563 discloses a tent with a play area is the area/space inside a first perimeter defined by the wall-strips (j) that wrap around vertical columns (d). The outer edges of the canopy flaps (i) create a second perimeter. The second perimeter being larger than the first as seen in figure 1.



Jensen '563 Figure 4

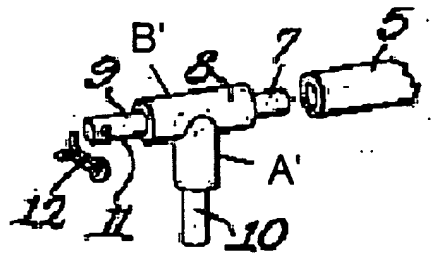
Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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22. Claims 2, 3, 17, 19, and 45-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 589,563 to Jensen in view of U.S. Patent 2,015,321 to Shelton. Jensen '563 discloses a tent with vertical support columns (d). On the top of the vertical support columns (d) is an eye (f) where a hip beam (c) can pass through so that part of the hip beam (c) is cantilevered from the support columns (d) and the other part extends upward to the cap (b). At the eye (f) is a clamp-screw (f') to hold the hip beam (c) in place. The tent includes a plurality of hip beams (c). The vertical columns (d) and the hip beams (c) are tubular in shape with tubular ends. Canopy flaps (i) are placed over the hip beams (c). A play area is the area/space inside a first perimeter defined by the wall-strips (j) that wrap around vertical columns (d). The outer edges of the canopy flaps (i) create a second perimeter. The second perimeter being larger than the first as seen in figure 1. Jensen '563 does not expressly disclose a bracket on top of the vertical columns wherein the brackets each include a vertical member and an angled member, a cantilever beam, and the angle of the hip beam being 22 degrees. Shelton '321 discloses a canopy frame with a canopy (23). Vertical support columns (16) have a bracket (8) on top. A vertical member (A') extends down from the bracket (8) and has a rod (10) to couple with the vertical support column (16). Similarly an angled member (B') has a rod (7) that extends out from the bracket (8) and couples with a tubular shaped beam (5). Also, another rod (9) extends from the angled member (B') of the bracket (8) in the opposite direction of the rod (7).



Shelton '321 Figure 3

23. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the hip beam of Jensen and cut it into two pieces at the point where the beam goes through the eye and then insert the bracket of Shelton in between the two pieces of the hip beam so that the rods (9,7) coaxial couple the two pieces of the tubular hip beam, the lower section being the cantilever beam. It is within one of ordinary skill in the art to make the angled member of the bracket of Shelton at the angle of the hip beam of Jensen so that the angle of Jensen's frame is maintained. The motivation for using the bracket of Shelton is that it will provide a more rigid structure by removing the clamp-screw mechanism while still keeping the ability for the structure to be easily transported.

24. It would have been an obvious matter of design choice to modify Jensen by having the hip beams extend at an angle of 22 degrees from the horizontal, since the applicant has not disclosed that having the hip beam extend at this specific angle solves any stated problem or is for any particular purpose and it appears that the structure would perform equally well with the hip beams at any acute angle.

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25. Claims 4, 5, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 589,563 to Jensen in view U.S. Patent 5,662,525 to Briggs. Jensen '563 discloses a tent with vertical support columns (d). On the top of the vertical support columns (d) is an eye (f) where a hip beam (c) can pass through so that part of the hip beam (c) is cantilevered from the support columns (d) and the other part extends upward to the cap (b). At the eye (f) is a clamp-screw (f') to hold the hip beam (c) in place. The tent includes a plurality of hip beams (c). The vertical columns (d) and the hip beams (c) are tubular in shape with tubular ends. Canopy flaps (i) are placed over the hip beams (c). A play area is the area/space inside a first perimeter defined by the wall-strips (j) that wrap around vertical columns (d). The outer edges of the canopy flaps (i) create a second perimeter. The second perimeter being larger than the first as seen in figure 1. Jensen '563 does not expressly disclose the children's play area as a platform that is suspended from the vertical columns and has play devices associated with it and the angle of the hip beam being 22 degrees. Briggs '525 discloses a children's play structure (20) that has vertical columns (21) that suspend and support a platform (57) associated with a plurality of children's play devices (22-37). Roof panels (59) are attached to the top of the vertical columns (21) and are directly above the platform (57). At the time of the invention it would have been obvious for a person of ordinary skill in the art to take canopy of Jensen and install it on the columns and replace the roof panels of Briggs so that children would have protection from the weather.

26. It would have been an obvious matter of design choice to modify Jensen by having the hip beams extend at an angle of 22 degrees from the horizontal, since the applicant has not disclosed that having the hip beam extend at this specific angle solves any stated problem or is for any particular purpose and it appears that the structure would perform equally well with the hip beams at any acute angle.

27. Claim 6-12, 14-16, 20, 13, and 22-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 589,563 to Jensen in view of U.S. Patent 5,662,525 to Briggs as applied to claims 4, 5, and 21 above, and further in view of U.S. Patent 2,015,321 to Shelton. Jensen '563 modified by Briggs '525 discloses every element as described above. Jensen '563 in view of Briggs '525 does not disclose expressly a bracket on top of the vertical columns, a cantilever beam, and a ridge beam. Shelton '321 discloses a canopy frame with a canopy (23). Vertical support columns (16) have a bracket (8) on top. A vertical member (A') extends down from the bracket (8) and has a rod (10) to couple with the vertical support column (16). Similarly an angled member (B') has a rod (7) that extends out from the bracket (8) and couples with a tubular shaped beam (5). Also, another rod (9) extends from the angled member (B') of the bracket (8) in the opposite direction of the rod (7).

28. At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the hip beam of Jensen and cut it into two pieces at the point where the beam goes through the eye and then insert the bracket of Shelton in between the two pieces of the hip beam so that the rods (9,7) coaxial couple the two pieces of

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the tubular hip beam, the lower section being the cantilever beam. It is within one of ordinary skill in the art to make the angled member of the bracket of Shelton at the angle of the hip beam of Jensen so that the angle of Jensen's frame is maintained. The motivation for using the bracket of Shelton is that it will provide a more rigid structure by removing the clamp-screw mechanism while still keeping the ability for the structure to be easily transported.

29. Regarding claims 12 and 25, it is well known in the roofing art to use a ridge beam when framing a roof and especially on a hipped roof that is not square.

30. Regarding the method of claims 32- 44, it is an obvious method given the structure as described above.

Conclusion

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Publication 2003\0009955 to Sellers discloses a clear span building structure with angled connection on the top of the columns. U.S. Patent 2,820,635 to Herman discloses a canopy over a children's sand box. U.S. Patent 4,898,198 to Castlebury discloses a canopy over a children's swing set. U.S. Patent 4,825,890 to Castlebury discloses a canopy over a children's t-bar gym set. U.S. Patent 5,660,005 to Tacoma discloses a frame structure that has a cantilevered beam section and a ridge beam. U.S. Patent 1,878,758 to Clayton discloses a children's play area that is a platform and that has a larger canopy overhead. U.S. Patent 3,017,893 to

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Greenbie discloses a building structure that has a rod that coaxial connects two tubular members.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-FRI 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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9/15/05



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